IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(*Special Original Jurisdiction*)

THURSDAY, THE NINTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

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WRIT PETITION NO : 19557 of 1994

Between:

Smt. Baravathula Varalakshmi, W/o. Satyanarayaa,
R/o. Visakhapatnam,

..... PETITIONER

AND

1. The Joint Collector & Additional Dist. Magistrate,
   Kakinada , East Godavari District.
2. The Mandal Revenue Officer,
   Kakinada , East Godavari District.
3. The Mandal Revenue Officer,
   Vishakapatnam.
4. The Mandal Revenue Officer, Araku Vally (M),
   Vishakapatnam.
5. M/s. Dredging Corporation of India Ltd.,

rep. by it's Chairman & Managing Director,
Port Area, Vishakapatnam-35.

..RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ declaring that the action of the first respondent in cancelling the community Certificate the petitioner while proceedings in reference No.B2/11290/92 dt.12.10.1994 is arbitrary and illegal and direct the respondents to continue and to allow the petitioner to enjoy the benefit of Social status of Schedule Tribe is belonging of Konda Kapu Community and grant such other relief as it deems fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.V.VENKATARAMANA

Counsel for the Respondent Nos.1 to 4: G.P. FOR REVENUE

Counsel for the Respondent No.5: MR.D.V.SITARAMA MURTHY

The Court made the following :

O R D E R:

The proceedings of the Joint Collector and Additional District Magistrate, East

Godavari District, Kakinada, dated 12-10-1994, whereunder the caste certificate obtained by the petitioner from the Tahasildar, Kakinada, in the year 1974, has been set aside, is impugned in this writ petition.

The petitioner prays for issuance of a writ of *Mandamus* declaring the action of the Joint Collector in cancelling the community certificate of the petitioner *vide* the impugned proceedings, dated 12-10-1994, as arbitrary and illegal.

The Vigilance Officer of the fifth respondent-Dredging Corporation of India Limited, the employer of the petitioner, has requested the District Collector, Visakhapatnam, for verification of caste and social status of the petitioner. On the basis of that request, the District Collector, Visakhapatnam, got the matter enquired, and the enquiry is stated to have revealed that the petitioner obtained the caste certificate as if she belongs to 'Konda Kapu', Scheduled Tribe, from the then Tahsildar, Kakinada, in the year 1974 and it is a bogus one. The District Collector, Visakhapatnam, in turn requested the Collector, East Godavari District, to take necessary action for cancellation of the certificate issued by the Tahsildar, Kakinada, in the year 1974.

The Joint Collector, Kakinada, *vide* proceedings, dated 11-12-1992, required the petitioner to submit her written explanation together with the recorded evidence, if any, as to why 'Konda Kapu' tribe certificate obtained by her from the then Tahsildar, Kakinada, in September, 1974, should not be cancelled and why her caste should not be taken as 'Kapu' and why the facts should not be intimated to the Dredging Corporation of India Limited, and the petitioner, accordingly, submitted her explanation on 29-12-1992 disputing the correctness of the allegations and the averments made in the show cause notice.

In the show-cause notice it is alleged that during the enquiry conducted by the Mandal Revenue Officer, Visakhapatnam, it was found that the petitioner does not belong to 'Konda Kapu'. The petitioner's version that her parents Sanyasirao and Ramanamma were the residents of Araku Loya, and she was

born in Araku Loya and later her parents migrated to Boorgumpadu in Khammam district, and she got herself educated in Boorgumpadu, was proved to be incorrect. Her plea that she severed her relations with her father and step-mother on account of her inter-caste marriage with 'Kapu' person was also found to be incorrect. The Mandal Revenue Officer relied on the statement of one Baravathula Narayana Rao, step-brother of the petitioner, who deposed that he is 'Kapu' by caste and that the petitioner and Saraswathi are the daughters of his father Sanyasirao. That after the death of the mother of the petitioner, his father-Sanyasirao married Ramanamma. That Narayana Rao was born to Ramanamma and they used to reside with their maternal grandfather at Boorgumpadu. He appears to have stated that his father-Sanyasirao, mother, petitioner and Saraswathi went to Araku on trade and thereafter, he does not know about the whereabouts of the petitioner and Saraswathi, and his parents were with his brother in Bombay.

The Mandal Revenue Officer appears to have placed heavy reliance upon the statement so made by Baravathula Narayanarao, the step-brother of the petitioner, and accordingly, submitted a report stating that the petitioner does not belong to Scheduled Tribe community. The show cause notice is solely based on the enquiry and the report of the Mandal Revenue Officer, Visakhapatnam.

The petitioner in her explanation relied upon the panchanama, dated 12-05-1957, prepared by the elders of Araku in respect of date of birth, place of birth and caste by birth, for enabling her parents to admit the petitioner into the school initially, decades ago. The statement of village Headman of Araku, dated 03-02-1971, about her continued connections with the castemen at Araku, school records throughout are indicating her caste as 'Kondakapu'. She denied the allegations levelled against her and further stated that the statement of Narayanarao, which is sated to have been recorded by the Mandal Revenue Officer, Visakhapatnam, cannot be accepted as the same was the result of enmity between them.

That a bare perusal of the impugned order discloses that no further enquiry, as such, was held by the Joint Collector. No doubt, the Joint Collector had taken into consideration the objections raised by the petitioner in her reply submitted to the show-cause notice. But the fact remains that the order of the Joint Collector mainly rest on the report of the Mandal Revenue Officer, Visakhapatnam, who in turn relied upon the statement of the step-brother of the petitioner by name Narayana Rao. That neither the enquiry report nor the statement of Narayanarao stated to have been recorded by the Mandal Revenue Officer were made available to the petitioner. Concededly, the basis of the show-cause notice and the whole origin of the resultant impugned order against the petitioner is based on the report of the Mandal Revenue Officer, who is alleged to have made an enquiry into the caste status of the petitioner. The Joint Collector ought to have made available the report of the Mandal Revenue Officer together with the statements, if any, recorded by the Mandal Revenue Officer, which alone would have enabled the petitioner to submit her explanation and defence in the matter.

Learned Government Pleader, upon perusal of the records, fairly stated that there is no material to show that the report of the Mandal Revenue Officer has been made available to the petitioner. The non-supply of material documents, upon which the whole of the impugned order is based, undoubtedly, had resulted in infringement of principles of natural justice. The petitioner, in law, is entitled to the report of the Mandal Revenue Officer and other documents upon which reliance has been placed by the Joint Collector for issuing the show-cause notice and as well as passing the impugned order. The impugned order deserves to be set aside only on the ground of non-complaince of the principles of natural justice.

The impugned order is, accordingly, set aside. The matter is remitted for fresh consideration, in accordance with law, leaving it open to the authorities to make an appropriate enquiry for which purpose the report of the Mandal Revenue Officer together with the statements stated to have been recorded by the Mandal Revenue Officer, Visakhapatnam shall be made available to the petitioner for submitting an additional explanation/defence, which shall duly be taken into consideration by the competent authority. This order shall in no manner preclude the competent authority to make an appropriate enquiry into

the caste status of the petitioner in the light of the observations made in this order.

Needless to observe that this Court has not expressed any opinion whatsoever on the question as to the caste status of the petitioner, which shall be gone into by the competent authority, for which purpose a detailed enquiry, in accordance with law, shall be made by providing reasonable opportunity to the petitioner enabling her to effectively participate in the enquiry.

The writ petition shall stand allowed to the extent indicated. There shall be no order as to costs.

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B. SUDERSHAN REDDY, J.

Date:09-12-2004

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To

1. The Joint Collector & Additional Dist. Magistrate,
   Kakinada , East Godavari District.
2. The Mandal Revenue Officer,
   Kakinada , East Godavari District.
3. The Mandal Revenue Officer,
   Vishakapatnam.
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